

Summary of Outstanding Issues for EPA/ND Class VI Crosswalk

North Dakota

- Public notification requirements (p. A-1-2; p. A-136-137; and p. A-142-144; 40 CFR §124.10)
 - EPA will review the draft language received in e-mail dated 3/26/12
- Commission has authority to impose additional requirements as necessary (See p. A-11; 40 CFR §144.12(b), as an example)
 - Another example: Commission may require the applicant to revise the plan, prescribe conditions... (See p. A-21; 40 CFR §144.51(o))
 - Commission needs authority/discretion to require additional monitoring, mitigation, and remediation... (See p. A-49/50; 40 CFR §146.83(b))
- Commission must give written notice to owner/operator that a well lacks mechanical integrity (p. A-22; 40 CFR §144.51(q)(2))
- Commission must establish a schedule of compliance under 40 CFR §144.53(a) (p.A-52)
- “state- or EPA-approved subsurface cleanup sites” (p. A-34; 40 CFR §146.82(a)(2))
- Proposed injection procedure (p. A-38; 40 CFR §146.82(a)(10))
- “Contamination” v. “endangerment” (p. A-59; 40 CFR §146.85(a)(3))
- Commission shall consider and approve (p. A-61; 40 CFR §146.85(a)(5)(i))
- Financial Responsibility – allowing an equivalent rating other than those specifically listed in EPA’s regulations; p. A- 63/64; 40 CFR §146.85(a)(6)(v)
- Casing and cementing of Class VI wells – “equivalent” casing standards; p. A-71/72; ND language at 6.d.; 40 CFR §146.86(b)(1)
- MIT Tests
 - add “EPA approved tests” to ND language p. A-89; 40 CFR §186.89(e)
 - to “conduct and evaluate”- discussion of adding “to conduct” p.A-90; 40 CFR §186.89(f)
- PISC – 50 year “default” and ND Century Code becomes the “alternate PISC”; (cross-references throughout the rule: p. A-40, p. A-47-48, p. A-53(2nd comment in red- 40 CFR §146.84(c)(1)), p. A-110 , p. A-112-130)
 - P. A-110: 40 CFR §146.93(a); The storage operator shall submit and maintain the post injection site care and facility closure plan...
- Schedule of Compliance (p. A-52, federal citation: §144.53(a))
- Storage reservoir definition includes “proposed”; add language that limits “storage reservoir” to the storage reservoir area that is authorized in the permit.
 - See p. A- 53/54 (40 CFR §146.84(c)(1)) Green text: “any migration will be unlikely to cross the storage reservoir boundary”
 - See p. A-72 re: “outside the storage reservoir is equivalent to unauthorized zones”

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- See p. A-116 re: “unlikely to cross the storage reservoir boundary”

EPA

- Requirements for the Director—check with OGC/ORC if these elements can be covered in the program description or the MOA between EPA Reg. 8 and NDIC.
- Secondary confinement—some policy questions about “secondary confinement”
- MIT Tests- EPA approval for alternative MIT tests to be discussed in program description or MOA.
- Review draft language from NDIC re: public notification as submitted in an email on 3/26/12 and “schedule of compliance” language as submitted in an email on 3/26/12
- No permit or letters or orders can be accepted, things must be in rule.
- Issue with adding the PWSS and does OGC feel the agreement between tribes and ND meets the requirements.